CERTIFICATE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1909.

No. 548. 239.

THE SUN PRINTING AND PUBLISHING ASSOCIATION

vs.

CHARLES WILLIAM EDWARDS.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

FILED MARCH 14, 1910.

(18,870.)

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(18,870.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 642.

THE SUN PRINTING AND PUBLISHING ASSOCIATION

vs.

CHARLES WILLIAM EDWARDS.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

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1 United States Circuit Court of Appeals, Second Circuit.

THE SUN PRINTING AND PUBLISHING ASSOCIATION, Plaintiff in Error,
vs.
CHARLES WILLIAM EDWARDS, Defendant in Error.

This cause comes here upon a writ of error to review a judgment of the circuit court, southern district of New York entered upon the verdict of a jury in favor of defendant in error who was plaintiff below. Upon examination of the record it appears that, in addition to various questions as to the merits of the controversy which are presented by the assignments of error, the jurisdiction of the circuit court is in issue. Under sections 5 and 6 of the act of March 3, 1891 writs of error in such cases are to be taken direct to the Supreme Court and the grant of appellate jurisdiction to the circuit courts of appeal does not include such cases.

In accordance therefore, with the practice indicated in Cincinnati, Hamilton & D. Co. *v.* Thiebaud, 177 U. S. 615, and Am. Sugar Co. *vs.* New Orleans 181 U. S. 277, and followed by this court in U. S. *vs.* Lee Yen Tai, 113 F. R. 465, this court elects to reserve judgment upon the other questions and to certify the question of jurisdiction to the Supreme Court.

2 *Statement of Facts.*

The facts out of which the question of jurisdiction arises are as follows:

The action is for breach of contract of employment. The complaint avers and the answer admits that defendant is a domestic corporation duly organized and existing under the laws of New York, having its principal office for the transaction of business in the southern district of New York. The complaint further avers and the answer admits that "plaintiff is a resident of the State of Delaware." Upon the trial the plaintiff testified "I started in the printing business about thirty years ago. * * * I have been on the New York Tribune, on the World, the Philadelphia Record and the American Press Association. * * * I had charge of the Morning News Wilmington, Delaware. * * * In this city [New York] I worked on the New York Tribune, on the Sun, on the World, and in the American Press Association. * * * Just prior to my going to work upon the New York Sun [under the contract in suit] I was the publisher and business manager of the Evening Journal of Wilmington, Delaware, and president of the company. * * * [After my discharge from the employ of the Sun] I finally secured a place with the New Haven Palladium, and I was there a while. * * * One of the reasons I left the New Haven Palladium was it was too far away from home. I lived in Delaware and I had to go back and forth. My family were over in Delaware."

There was no other testimony in any way bearing upon plaintiff's residence or citizenship.

3 The jurisdiction of the circuit court was not questioned by defendant in the court below, and the assignments of error do not present any such question.

Question Certified.

Upon the facts above set forth, the question of law concerning which this court desires the instruction of the Supreme Court is:

"Had the circuit court jurisdiction of the controversy between plaintiff and defendant?"

In accordance with the provisions of section 6 of the act of March 31, 1891, establishing courts of appeal, etc., the foregoing question of law is by the circuit court of appeals for the second circuit hereby certified to the Supreme Court.

March 11th, 1903.

E. HENRY LACOMBE,
Circuit Judge.
ALFRED C. COXE,
Circuit Judge.

4 [Endorsed:] United States circuit court of appeals, second circuit. The Sun Printing and Publishing Association, pl'ff in error, *vs.* Charles William Edwards, def't in error. Certificate to Supreme Court. United States circuit court of appeals, second circuit. Filed Mar. 12 1903. William Parkin, clerk.

5 UNITED STATES OF AMERICA, }
Southern District of New York. }

I, William Parkin, clerk of the United States circuit court of appeals for the second circuit do hereby certicy that the foregoing certificate was filed and entered of record in my office on the 12th day of March, 1903, and as directed by the judges of said court, the said certificate is by me forwarded to the Supreme Court of the United States for its action thereon.

New York, March 13, 1903.

[Seal United States Circuit Court of Appeals, Second Circuit]

WM. PARKIN,
Clerk of the United States Circuit Court of Appeals for the Second Circuit.

6 [Endorsed:] United States circuit court of appeals, second circuit. Sun Printing & Publishing Ass'n *v.* Chas. W. Edwards. Certificate.

Endorsed on cover: (Certificate.) File No. 18,870. U. S. C. C. of appeals, 2nd circuit. Term No. 642. The Sun Printing and Publishing Association *vs.* Charles William Edwards. Filed March 19, 1903.